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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,892	02/26/2004	Alan Kessler	71563-010200	9294
7590 11/16/2005 Greenberg Traurig, LLP Suite 400 2450 Colorado Avenue Santa Monica, CA 90404			EXAMINER STIGELL, THEODORE J	
			ART UNIT 3763	PAPER NUMBER

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

e

<b>Office Action Summary</b>	<b>Application No.</b> 10/789,892	<b>Applicant(s)</b> KESSLER, ALAN	
	<b>Examiner</b> Theodore J. Stigell	<b>Art Unit</b> 3763	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.  
 4a) Of the above claim(s) 12, 14, 21, 29 and 33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13, 15-20, 22-28, 30-32 and 34 is/are rejected.
- 7) ☒ Claim(s) 25, 35-37 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/11/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of Species E (Figures 8-9) in the reply filed on 10/24/2005 is acknowledged. The Examiner agrees with the Applicant that claims 1-11,13,15-20,22-28, 30-32, and 34-37 read on the elected species. It is the position of the Examiner that claim 33 is substantially the same as claim 29 and is withdrawn from consideration as being drawn to a non-elected species. Claims 12,14, and 21 are also withdrawn for the same reason.

### ***Claim Objections***

Claim 25 is objected to because of the following informalities: It is the position of the Examiner that the claim should read "said lower support plate of said securement base". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites the limitation "said connector" in line 12. There is insufficient antecedent basis for this limitation in the claim. Claim 28 recites the limitation "said ramp" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7,9,16-17,19-20,22,23,24,26-28,30 rejected under 35 U.S.C. 102(b) as being anticipated by Bierman (5,855,591).

In regards to claims 1 and 30, Bierman discloses a catheter securement device that comprises a pad (16) having an adhesive surface on one side thereof adapted to adhere to the skin of patient when exposed, a peel off backing sheet (36) adhering to at least a portion of the pad and adapted to expose the pad when pulled off, a securement base (22,38) secured to the pad and having one or more spaced holes (40) extending therethrough, the base comprised of an upper portion (38) secured to a lower base plate (22) with the plate being secured to the pad, and at least one strand (18) having a free end extending through the holes disposed on the base.

In regards to claims 2-7 and 9-10, Bierman discloses a device that includes all of the limitations as recited in claim 1 wherein a flexible beam (20) is embedded in the lower plate and the strand extending through the beam when inserted into the holes in the base, at least one spaced hole and one strand is provided, one or more holes extending through the upper and lower portions, and the base having a concave portion (48) in the middle thereof to accommodate the catheter with two elongated end walls spaced together by a sidewall.

In regards to claims 15-17, 19-20, 22, Bierman discloses a device that includes all of the limitations as recited in claim 1 wherein the base is made of a plastic material, the pad is made of a fabric material overlaid by an adhesive material, the strand is made of a flexible material that is non-extendable in its long axis, and the upper support base portion is made of polymeric material.

In regards to claims 23-28, 31-32 and Bierman discloses a device that includes all of the limitations as recited in claim 1 wherein the holes extending through the base include hole portions through the upper surface of the base, and the flexible beam is embedded in the second lower plate and creates and maintains tension on the strand when it is secured to the base, the strand capable of being knotted and one end glued to the base.

In regards to claims 34, Bierman discloses a device that includes all of the limitations as recited in claim 30 wherein a hole (40) is disposed through the base and a hole is disposed through the post (20), the strand (18) extending through the hole in the post.

#### ***Allowable Subject Matter***

Claims 35-37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Kalt 4,966,590  
Hammersley 5,282,463  
Hollands 5,224,935  
Horn 5,792,115  
White 5,643,216  
Bowen et al. 5,147,322

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theodore J. Stigell whose telephone number is 571-272-8759. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Theodore J. Stigell

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